

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THE UNITED STATES OF)
AMERICA, et al.,)

Plaintiffs,)

v.) Civil Action No. 05-10112-RCL

THE COMMONWEALTH OF)
MASSACHUSETTS, et al.,)

Defendants.)

ORDER.

March 3, 2008

SOROKIN, M.J.

The Commonwealth's Opposition to the United States' Motion for Preliminary and Permanent Injunction argues that the Coast Guard acted arbitrarily, as a matter of administrative law, in purporting to preempt the Massachusetts statute's tug escort and manning requirements when the Coast Guard had previously decided not to preempt Washington state law requiring tug escorts in Puget Sound. See Docket #96, at 8-9, 15-17, and citations therein; 59 F.R. 42962 (August 19, 1994). The United States' Memorandum in Support of its Motion does not address this argument.

Accordingly, it is ORDERED that the United States shall file by March 13, 2008, a reply memorandum not to exceed seven pages addressing the Commonwealth's argument and the relationship, if any, of the Coast Guard's Puget Sound rulemaking to the issues now pending

before the Court. The Commonwealth may file a surreply, not to exceed five pages, by March 20, 2008.

/s / Leo T. Sorokin
UNITED STATES MAGISTRATE JUDGE